

GOVERNMENT OF PUDUCHERRY

LABOUR DEPARTMENT

(G.O. Rt. No. 24/AIL/Lab./J/2013, dated 26th February 2013)

NOTIFICATION

Whereas, an Award in I.D. No. 27/2010, dated 28-9-2012 of the Labour Court, Puducherry in respect of the industrial dispute between the Managing Director, MRF Limited, Puducherry and one Thiru S. Gnanamani, over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/90/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the official gazette, Puducherry.

(By order)

S. THAMMU GANAPATHY,

Under Secretary to Government (Labour).

BEFORE THE LABOUR COURT AT PUDUCHERRY

Present : Thiru T. MOHANDASS, M.A., M.L.,
Presiding Officer, Labour Court,
Puducherry.

Friday, the 28th day of September 2012.

I.D. No. 27/2010

S. Gnanamani .. Petitioner

Versus

The Managing Director,
MRF Limited, Eripakkam,
Puducherry.

.. Respondent

This industrial dispute coming on 24-9-2012 for final hearing before me in the presence of Thiru H.D. Kumaravelu, Advocate for the petitioner, Thiruvallargal L. Swaminathan and I. Ilankumar, Advocates for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this court passed the following:

AWARD

This industrial dispute arises out of the reference made by the Government of Puducherry, *vide* G.O. Rt. No. 158/AIL/Lab./J/2010, dated 15-7-2010 of the Labour Department, Puducherry to resolve the following dispute between the petitioner and the respondent, *viz.*,

(1) Whether the dispute raised by Thiru S. Gnanamani against the management of M/s. MRF Limited, Eripakkam, Puducherry, over non-employment is justified or not?

(2) If justified, what relief the petitioner is entitled to?

(3) To compute the relief, if any, awarded in terms of money, if it can be so computed?

2. The petitioner, in his claim statement, has averred as follows:

The petitioner had worked in the respondent factory from 1-8-2001 and he was terminated from service without any reason. The management according to their whims and fancies obtained the signature of the petitioner under threat. The only intention of management is to keep persons, who are dancing according to the tunes of management and the persons like the petitioner, who too worked for the uplift of the company, is being penalised for no fault and the petitioner was not guilty of the gross misconduct. The petitioner was not irregular in his attendance is an unadulterated pucca falsehood. The order of termination by the respondent is ultra vires, illegal and without any reasoning. The disciplinary proceeding alleged by the management is the concocted documents. No fair proceedings were conducted against the petitioner by the management. Hence, this industrial dispute is filed to reinstate the petitioner into service with back wages.

3. In the counter statement, the respondent has stated as follows:

The petitioner was offered an appointment as apprentice through apprenticeship order, dated 1-1-2002 followed by probationary appointment order, dated 1-2-2003. The petitioner was in the habit of remaining unauthorisedly absent from duty on various occasions in the calendar years 2003 and 2004 for which warning letters to the petitioner were issued by the respondent on 29-6-2003, 9-9-2003, 15-10-2004 and 8-11-2004. As the petitioner had totally ignored the warning issued by the respondent, continued to remain absent from duty with effect from 8-5-2005 onwards. The respondent management issued a show cause notice, dated 21-5-2005 intimating the petitioner about remaining unauthorisedly absent for nearly 62 days during October 2004 to April 2005 and again from 8-5-2005 and directed him to submit his written explanation within 48 hours. The petitioner submitted his written explanation, dated 23-5-2005 admitting the charges of the show cause notice. Eventhough the petitioner had admitted the charges, the respondent in order to be fair and just, had ordered for an enquiry and on 3-6-2005 during the enquiry proceedings, the petitioner had admitted the charges

mentioned in the show cause notice, dated 21-5-2005 by confessing that the charges levelled against the petitioner as true. The Enquiry Officer had submitted the enquiry report, dated 23-6-2005 by holding that the charges against the petitioner are proved.

Before any action could be initiated on the said enquiry report, the petitioner was again unauthorisedly absent for seven days in August 2005, for which the respondent has issued a warning letter, dated 30-8-2005 and in spite of it, the petitioner had again absented from duty from 7-9-2005 onwards and hence another show cause notice, dated 28-9-2005 was issued calling upon him to submit his explanation and he submitted his explanation, dated 3-10-2005 admitting the charges found in the said show cause notice and after receipt of the said explanation, the petitioner was imposed with the punishment of suspension for a period of four days from 5-10-2005 to 8-10-2005. In spite of punishment of suspension, the petitioner again remained unauthorisedly absent. Hence, the petitioner was issued a show cause notice, dated 16-9-2006 by the respondent and the petitioner submitted his own hand written explanation, dated 16-9-2006, admitting the charges contained in the said show cause notice. Then the enquiry was conducted and during the enquiry proceedings, the petitioner admitted the charges and the Enquiry Officer held that the petitioner was guilty of the misconduct and the charges stand proved against him. Then the second show cause notice, dated 12-2-2007 was issued to the petitioner along with the copy of the enquiry report and called upon him to submit his written explanation and then the petitioner was unauthorisedly absent from 8-5-2007 for which also the enquiry proceedings was conducted and in the enquiry, the petitioner admitted the charges found in the show cause notice. Hence, the respondent had totally lost confidence against the claim petitioner as in all the three enquiry proceedings it could be seen that the petitioner had accepted the charges of unauthorised absence. Hence, the respondent had issued a order of termination dated 20-6-2007 to the petitioner. Thus it is an appropriate case, where the respondent had patiently waited by taking lenient views on earlier occasions and the manner of punishment of termination from service is in consonance with the attitude of the petitioner and no sympathy can be bestowed even to a slightest extent. Hence, they pray for dismissal of the industrial dispute.

4. On the side of the petitioner, PW.1 to PW.3 were examined and Ex.P1 to Ex.P21 were marked. On the side of the respondent, RW1 was examined and Ex.R1 to Ex.R31 were marked.

5. The point for determination is:

Whether the industrial dispute can be allowed?

6. On the point:

The contention of the petitioner is that he had worked in the respondent factory from 1-8-2001 and he was terminated from service without any reason and the management according to their whims and fancies obtained the signature of the petitioner under threat and the only intention of management is to keep persons, who are dancing according to the tunes of management and the persons like the petitioner, who too worked for the uplift of the company, is being penalised for no fault and the petitioner was not guilty of the gross misconduct. In order to prove his claim, the petitioner examined himself as PW1.

7. *Per contra*, the contention of the respondent is that the petitioner was in the habit of remaining unauthorisedly absent from duty on various occasions and hence he was terminated from service. The learned counsel for the respondent relied upon the following decisions to support the claim of the respondent:

2004(2) LLJ 543 (SC):

“Treating unauthorised absence from duty as leave without pay, not the same as sanctioned leave. Absence without obtaining leave in advance, such being requirement under the relevant Standing Orders held amounted to misconduct and therefore termination is justified”.

2008II LLJ 645 (SC):

“Once it is found that all the procedural requirements have been complied with, Courts would not ordinarily interfere in the quantum of punishment imposed upon a delinquent employee. If the decision of the employer is found to be within the legal parameters, jurisdiction would ordinarily not be invoked when the misconduct stands proved.”.

2002 LLR 220:

“The misconduct of habitual absenting of the petitioner without obtaining leave on nearly five occasions has been proved on its own merits and in spite of imposition of minor punishments, the petitioner had not mend his ways. The Labour Court found as a matter of fact that the petitioner is guilty of unauthorised and unjustified absence. Such a finding of fact cannot be brushed aside or interfered with particularly in the facts and circumstances of the case”.

(2008) 5 MLJ 733:

“When the charge of habitual absence against the employee was proved and the competent authority/ employer imposed a proper punishment, it is not open to the Central Administrative Tribunal to interfere with the quantum of punishment on the premise that

the charge of habitual absence of the employee was not grave. Such order of the CAT is clearly erroneous and liable to be set aside”.

2009(5) CTC 160:

“In the light of the above decisions of the Supreme Court, it is now well settled that desertion in a disciplined force is a serious lapse, which cannot be treated lightly. It is the categorical findings of the Enquiry Officer that the previous punishment imposed on the petitioner did not give the desired effect of correction. But he had repeated the act of desertion for which he has been dismissed from service”.

In order to prove the claim of the respondent, the Senior Officer of the respondent company was examined as RW1. RW1 in his evidence has deposed that the petitioner was in the habit of remaining unauthorisedly absent from duty on various occasions in the calendar years 2003 and 2004 for which warning letters to the petitioner were issued on 29-6-2003, 9-9-2003, 15-10-2004 and 8-11-2004 under Ex.R1, Ex.R3 to Ex.R5 and as the petitioner had totally ignored the said warning letters, continued to remain absent from duty with effect from 8-5-2005 onwards and the respondent issued a show cause notice, dated 21-5-2005 under Ex.R6 intimating the petitioner about remaining unauthorisedly absent for nearly 62 days during October 2004 to April 2005 and again from 8-5-2005 and directed him to submit his written explanation and the petitioner submitted his written explanation admitting the charges of the show cause notice and then the enquiry was conducted and in the enquiry proceedings, the petitioner has admitted the charges mentioned in the show cause notice and the Enquiry Officer submitted his report under Ex.R10 by holding that the charges against the petitioner were proved, but the respondent has not taken any action against the petitioner.

8. RW1 further deposed that again the petitioner was unauthorisedly absent for seven days from duty in August 2005 to which the respondent issued warning letter, dated 30-8-2005 under Ex.R11 and in spite of issuance of warning letter the petitioner had again absented from duty from 7-9-2005 onwards and hence a show cause notice, dated 28-9-2005 under Ex.R12 was issued calling upon to submit his explanation and the petitioner submitted his written explanation, dated 3-10-2005 under Ex.R13 admitting the charges to the said show cause notice and after receipt of the said explanation, the respondent issued a memo., dated 4-10-2005 under Ex.R14 and in order to afford another opportunity, a lenient view was taken by the respondent and the petitioner was imposed with the punishment of suspension for four days from 5-10-2005 to 8-10-2005. RW1 further deposed that again the petitioner was

remained unauthorisedly absent in May 2006 for nine days, in June 2006 for 8 days and in July 2006 for 3 days to which warning letter, dated 19-5-2006, 15-7-2006 and 12-8-2006 under Ex.R15 to Ex.R17 respectively were issued to him and then a show cause notice under Ex.R18 was issued to the petitioner calling for his explanation and the petitioner submitted his written explanation under Ex.R19 admitting the charges and then they had initiated domestic enquiry proceedings and the Enquiry Officer after completion of enquiry proceedings had submitted his enquiry report under Ex.R21 by holding that the petitioner is guilty of the misconduct and after receipt of the said report, they had taken a lenient view by issuing only an order of suspension under Ex.R22 with effect from 13-10-2006 to 27-10-2006.

9. RW1 further deposed that the petitioner had again unauthorisedly absent with effect from 2-11-2006 onwards and they issued a phonogram, dated 21-11-2006 under Ex.R23 to report for duty and the petitioner did not report for duty in spite of receipt of phonogram and hence they issued a show cause notice under Ex.R24 calling upon him to submit his written explanation and he submitted his written explanation, dated 18-12-2006 under Ex.R25, admitting the charges to the said show cause notice and then enquiry was conducted and in the enquiry, the petitioner had admitted the charges of unauthorised absence and the Enquiry Officer submitted his enquiry report under Ex.R27 holding that the charges levelled against the petitioner are proved and they issued a show cause notice, dated 12-2-2007 under Ex.R28 with copy of the enquiry report and the petitioner was called upon to submit his explanation and the petitioner submitted his explanation, dated 17-2-2007 admitting the charges of the unauthorisedly absent from duty and hence they terminated him from service under Ex.R29.

10. The above oral evidence of RW1 and the documents as mentioned above are clearly established that the petitioner had unauthorisedly absent from duty on four occasions, which has been admitted by the petitioner himself during the enquiry proceedings. Hence, the contention of the petitioner that he was terminated from service without any reason cannot be accepted.

11. Now this court has to see whether the punishment imposed by the respondent management is disproportionate or not.

12. The charge against the petitioner is that he was in the habit of remaining unauthorisedly absent from duty on various occasions. The petitioner has admitted the said charge during the enquiry proceedings. On the side of the petitioner, the copy of the letter, dated 18-12-2009 addressed the respondent company was marked as

Ex.P11. In Ex.P11 the petitioner has admitted about the absent from duty during the year 2005, 2006 and 2007 and due to his family circumstances and since his mother was not well, he was unable to attend the duty and during the year 2007, his mother condition was very worst, he could not report for duty and then he was terminated from service. On the side of the petitioner, the cytology report from FNAC and body fluids of his mother, dated 6-4-2006 was marked as Ex.P19 and the certificate dated 18-10-2004, issued by the Medical Officer was marked as Ex.P20. Ex.P19 and Ex.P20 would prove that the mother of the petitioner was not well during the year 2004 and 2006. In the above circumstances, I feel that the petitioner has not reported for duty wantonly, but due to the health condition of his mother was not well, he was absent for various occasions and hence the charge levelled against the petitioner cannot be taken as a serious one. Further there is nothing record to show that any previous adverse remark against the petitioner had been taken into consideration by the management for awarding the extreme penalty of dismissal from service to the petitioner. In fact, RW1 in his cross examination has admitted that except the present unauthorised absent, there is no adverse remarks as against the petitioner. The relevant portion of his evidence runs as follows:

“மனுதாரர் பேரில் விடுப்பை தவிர வேறு எந்த குற்றச்சாட்டும் இல்லை என்றால் சரிதான்”.

When the petitioner has stated about the reason for absent from duty in Ex.P11 and the same has been established through Ex.P19 and Ex.P20, the dismissal order issued by the respondent to the petitioner is disproportionate. Hence, I am therefore of the opinion that the punishment awarded to the petitioner is shockingly disproportionate and consequently, the dismissal order passed by the respondent management is liable to be set aside.

13. The learned counsel for the respondent submitted that they had totally lost confidence as the petitioner was found guilty of unauthorised and unjustified absence amounting to grave misconduct and the present gravity of charges and the past records of misconduct would clearly spell out that the petitioner is not a fit person to be allowed to continue in service and they cannot take the risk of allowing the petitioner to continue as a workman as it would set a wrong precedent.

14. It is pertinent to refer the following decision, which is relevant to this case:

(2006) 5 Supreme Court Cases 173:

"Ss. 11-A, 25-F and 25-B - Relief under S. 11-A - Nature of, and preconditions for grant of reinstatement - Relief under S.11-A, held, discretionary - Hence, should be granted not automatically but after

considering the peculiar facts of each case including the nature and purpose of the appointment, the duration/tenure of the work and the question whether the post was a sanctioned one - that it is lawful to grant reinstatement with back wages does not mean that the same should be granted automatically- In the present case, the appointment of the respondent workman was not in a sanctioned post and was made at the instance of a Minister dehors the rules and in violation of Arts. 14 and 16 while the employer Municipal Council was a 'State' within the meaning of Art. 12 - Hence, the said appointment, held, void- Therefore, for termination of his service without complying with S.25-F, held, the appropriate relief was grant of monetary compensation (₹ 50,000 in this case) and not reinstatement with back wages”.

15. This court has already come to the conclusion that the termination of petitioner from service is disproportionate and the same is liable to be set aside. Under these circumstances, if any order passed by this court to reinstate the petitioner into service, there will not be any smooth relationship between the petitioner and the respondent, as the respondent has lost confidence, since the petitioner was found guilty of unauthorised and unjustified absence. Hence, being guided by the Hon'ble Supreme Court in the above decision, instead of reinstate the petitioner into service, he can be given monetary compensation.

16. On the side of the petitioner, one Muralidaran, Subramanian and Arulpragasam were examined as PWs.2 to 4. According to them, they were working in the respondent company from 2002 to 2009 and since they were participated in the strike conducted in their company, they were terminated from service by the respondent and they raised a dispute before the Conciliation Officer and on interference by the Conciliation Officer, it is decided to reinstate them into service, but the respondent without reinstate them, settled their accounts by paying a sum of ₹ 4,50,000 each to them.

17. The services of the petitioner were confirmed on 1-8-2003 as could be seen from the order of confirmation under Ex.P1 and he was terminated from service on 20-6-2007 under Ex.P2. Considering the age and the services rendered in the respondent company and considering the evidence of PWs.2 to 4, a sum of ₹ 2,00,000 is awarded to the petitioner towards monetary compensation. Accordingly, this point is answered.

18. In the result, the industrial dispute is partly allowed and the petitioner is not entitled for reinstatement. However, he is entitled for monetary compensation of ₹ 2,00,000 (Rupees two lakhs only) from the respondent. No costs.

Typed to my dictation, corrected and pronounced by me in the open court on this the 28th day of September, 2012.

T. MOHANDASS,
Presiding Officer, Labour Court,
Puducherry.

List of witnesses examined for the petitioner :

- PW1 — 16-2-2012 — Gnanamani.
- PW2 — 26-7-2012 — Muralidharan.
- PW3 — 26-7-2012 — K. Subramanian.
- PW4 — 26-7-2012 — Arulpragasam.

List of witness examined for the respondent :

- RW1 — 24-8-2012 — C. Rajadurai.

List of exhibits marked for the petitioner :

- Ex.P1 — Copy of order of confirmation, dated 1-8-2003.
- Ex.P2 — Order, dated 20-6-2007 issued to the petitioner.
- Ex.P3 — Letter, dated 11-7-2008 by petitioner to Labour Officer.
- Ex.P4 — Reply filed by management, dated 17-1-2009.
- Ex.P5 — Counter statement, filed by the petitioner
- Ex.P6 — Letter, dated 13-11-2008, issued by the Labour Officer.
- Ex.P7 — Notice, dated 2-3-2009 by the Labour Officer to both parties.
- Ex.P8 — Notice, dated 9-6-2009 by the Labour Officer to the petitioner.
- Ex.P9 — Letter, dated 1-10-2009 to the Labour Officer by the petitioner.
- Ex.P10 — Letter, dated 4-11-2009 by the General Secretary to Labour Officer.
- Ex.P11 — Letter, dated 18-12-2009 by the petitioner to the respondent.
- Ex.P12 — Failure report, dated 16-6-2010
- Ex.P13 — Government Order, dated 5-7-2010, issued by Joint Secretary (Labour).
- Ex.P14 — Reply filed by respondent, dated 1-6-2009.
- Ex.P15 — Reply filed by the petitioner 1-6-2009.
- Ex.P16 — Letter, dated 29-7-2009 by the respondent to Labour Officer.
- Ex.P17 — Pay slip of the petitioner.

Ex.P18 — Discharge summary issued by Sri Manakula Vinayagar Medical College, dated 29-7-2009.

Ex.P19 — Cytology report from FNAC and body fluids.

Ex.P20 — Medical Certificate, issued by Dr. A.S. Palsami, dated 18-10-2004.

List of exhibits marked for the respondent :

- Ex.R1 — Warning letter, dated 29-6-2003 to the petitioner.
- Ex.R2 — Order of confirmation, dated 1-8-2003 to the petitioner.
- Ex.R3 — Warning letter, dated 9-9-2003 to the petitioner.
- Ex.R4 — Warning letter, dated 15-10-2003 to the petitioner.
- Ex.R5 — Warning letter, dated 8-11-2004 to the petitioner.
- Ex.R6 — Show cause notice, dated 21-5-2005 issued to the petitioner.
- Ex.R7 — Explanation of the petitioner, dated 23-5-2005.
- Ex.R8 — Enquiry notice, dated 31-5-2005
- Ex.R9 — Daily order proceedings, dated 3-6-2005
- Ex.R10 — Enquiry report, dated 23-6-2005
- Ex.R11 — Warning letter, dated 30-8-2005
- Ex.R12 — Show cause notice, dated 28-9-2005
- Ex.R13 — Explanation of the petitioner, dated 3-10-2005.
- Ex.R14 — Memo., dated 4-10-2005 issued by the respondent to the petitioner.
- Ex.R15 — Warning letter, dated 19-5-2006
- Ex.R16 — Warning letter, dated 15-7-2006
- Ex.R17 — Warning letter, dated 12-8-2006.
- Ex.R18 — Show cause notice, dated 16-9-2006.
- Ex.R19 — Explanation submitted by the petitioner, dated 16-9-2006.
- Ex.R20 — Daily order proceedings, dated 12-10-2006.
- Ex.R21 — Enquiry report, dated 12-10-2006.
- Ex.R22 — Suspension order, dated 13-10-2006.
- Ex.R23 — Phonogram, dated 21-11-2006.
- Ex.R24 — Show cause notice, dated 14-12-2006.
- Ex.R25 — Explanation, dated 18-12-2006 given by the petitioner.
- Ex.R26 — Daily order proceedings, dated 5-1-2007.
- Ex.R27 — Enquiry report, dated 22-1-2007.

Ex.R28 — Memo., dated 12-2-2007 issued by the respondent.

Ex.R29 — Order of termination, dated 20-6-2007.

Ex.R30 — Pay slip of the petitioner.

Ex.R31 — Register of leave with wages of the petitioner.

T. MOHANDASS,
II Additional District Judge,
Presiding Officer, Labour Court,
Puducherry.

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 25/AIL/Lab./J/2013, dated 26th February 2013)

NOTIFICATION

Whereas, an Award in I.D. No. 15/2011, dated 25-10-2012 of the Labour Court, Puducherry in respect of the industrial dispute between the Pondicherry Co-operative Milk Producers Union Limited, Puducherry and one Thiru J. Anthonisamy, over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G. O. Ms. No. 20/90/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said award shall be published in the official gazette, Puducherry.

(By order)

S. THAMMU GANAPATHY,
Under Secretary to Government (Labour).

BEFORE THE LABOUR COURT AT PUDUCHERRY

Present : Thiru T. MOHANDASS, M.A., M.L.,
Presiding Officer, Labour Court,
Puducherry.

Thursday, the 25th day of October 2012.

I.D. No. 15/2011

J. Anthonisamy . . . Petitioner

Versus

The Managing Director,
Pondicherry Co-operative Milk
Producers' Union Limited,
Puducherry. . . Respondent

This industrial dispute coming on 19-10-2012 for final hearing before me in the presence of Thiru P. Sankaran, M/s. Law Solvers, Advocate for the petitioner, Thiruvallargal L. Swaminathan and I. Ilankumar, Advocates for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this court passed the following:

AWARD

This industrial dispute arises out of the reference made by the Government of Puducherry, *vide* G. O. Rt. No. 107/AIL/Lab./J/2011, dated 26-5-2011 of the Labour Department, Puducherry to resolve the following dispute between the petitioner and the respondent, *viz.*,

(1) Whether the dispute raised by Thiru J. Anthonisamy against the management of M/s. Pondicherry Co-operative Milk Producers' Union Limited, Puducherry over his dismissal from service is illegal is justified?

(2) If justified, to what relief the petitioner is entitled to?

(3) To compute the relief, if any, awarded in terms of money, if it can be so computed?

2. The petitioner, in his claim statement, has averred as follows :

The petitioner was joined as casual workman in the respondent industry on 1-11-1969 and confirmed as permanent employee on 1-3-1970. On 28-5-2004 the respondent management suspended the petitioner from service all of a sudden without any *prima facie* with an ulterior motive to victimise him. Then the respondent issued a show cause notice to the petitioner, for which the petitioner has given proper reply. The respondent management without considering his reply has caused to issue a false and imaginary charge-sheet to the petitioner, dated 29-7-2004 without enclosing the necessary copy of the complaint, list of witnesses, etc., for which the petitioner has given a suitable explanation in time.

Then the enquiry was conducted against him and the Enquiry Officer without adopting the rules of natural justice, gave report suiting to the requirements of the respondent management, dated 26-11-2004 which is vitiated, void, illegal and unjust. The respondent postponed the suspension till 7-2-2005 and again extended for 90 days and proposed punishment of dismissal disproportionate to the charges levelled against the petitioner inhumanly ignoring all his past services and his family on an imaginary and unproved charge which is against law and natural justice. The

petitioner submitted his reply, dated 11-2-2005 to the proposed punishment and the respondent ignored the same and imposed the punishment of dismissal with effect from 17-2-2005. He was 57 years old completing 35 years of clean service at the time of imposing the grave punishment of dismissal on purely imaginary and speculative charges. Hence, this industrial dispute is filed to declare that the petitioner is deemed to be continued in service till the date of superannuation and to declare that he is entitled for back wages till the date of superannuation.

3. In the counter statement, the respondent has stated as follows:

The petitioner was employed as Plant Operator in the respondent administration and he was suspended from service with effect from 28-5-2004 in contemplation of the disciplinary proceedings. The respondent has issued a show cause notice, dated 9-7-2004 calling upon the petitioner to submit his explanation and he submitted his explanation on 12-6-2004 denying the contents of the show cause notice. As the respondent was not satisfied with the explanation, the petitioner was issued with a charge-sheet, dated 29-7-2004 and the petitioner submitted his explanation, dated 4-8-2004 and requested for reinstatement. As the said reply was not satisfactory, an enquiry was ordered and the Enquiry Officer after conducting the enquiry, had submitted his enquiry report, dated 26-11-2004 by holding that the charges framed against him were proved. Then the respondent served a show cause memorandum, dated 7-2-2005 to the petitioner calling upon him to submit his explanation and he submitted his written explanation, dated 11-2-2005 by stating that on account of his family circumstances, he walked out of the enquiry proceedings on 3-11-2004. Since the charges are very serious in nature, the petitioner was dismissed from service through order, dated 17-2-2005.

The Enquiry Officer conducted the enquiry in strict observance of principles of natural justice and afforded all possible opportunities to the petitioner and had held that the charges under charge-sheet, dated 29-7-2004 as proved and then the Disciplinary Authority had fully concurred with the findings of the Enquiry Officer.

Eventhough, the petitioner was dismissed from service, the petitioner had been effected with full gratuity amount up to the date of dismissal and has also received the entire P.F. dues which is normally not paid to a employee, who is dismissed from service on account of proven misconduct. Having received the gratuity amount and provident fund dues, the petitioner is estopped from challenging the order of dismissal, dated 17-2-2005 as he had accepted the payments *in lieu* of the order of dismissal without any remorse. Hence, they pray for dismissal of the industrial disput.

4. On the side of the petitioner, PW.1 was examined and Ex.P1 to Ex.P14 were marked. On the side of the respondent, no oral evidence was adduced and Ex.R1 to Ex.R25 were marked.

5. *The point for determination is:*

Whether the petitioner can be considered for reinstatement in service with accrued benefits?

6. *On the point :*

The contention of the petitioner is that he joined as casual workman on 1-11-1969 and confirmed as permanent employee on 1-3-1970. Though there is no document produced on the side of the petitioner, the said fact has not been denied by the respondent.

7. Further, contention of the petitioner is that on 28-5-2004 the respondent management suspended him from service all of a sudden without any *prima facie* with an ulterior motive to victimise him. In order to prove his claim, he examined himself as P.W.1. P.W.1. further stated that he was serving for the development of the industry from the very inception of it, but at the same time, he used to fight for his individual and collective rights jointly and severally without any compromise and thereby the respondent management was always looking for an opportunity to victimise him.

8. *Per contra*, the contention of the respondent is that on 19-5-2004 the petitioner has not opened the chilled water valve during pasteurisation of milk during his day shift duty, which might have resulted in huge quantity of milk getting spoiled, if it was not noticed in time by the superior and hence he was issued with a show cause notice, dated 9-7-2004 under Ex.R6 and the explanation submitted by the petitioner was not satisfied, the petitioner was issued with a charge-sheet dated 29-7-2004 under Ex.R8 and the petitioner through his letter, dated 31-7-2004 under Ex.R9 had sought 15 days time for submission of his reply statement and after getting explanation, dated 4-8-2004 from the petitioner under Ex.R7, an enquiry was conducted and the Enquiry Officer conducted the enquiry and submitted his enquiry report, dated 26-11-2004 and after receipt of the enquiry report, the respondent served a show cause memorandum, dated 7-2-2005 under Ex.R3 to the petitioner calling upon him to submit his explanation and the petitioner submitted his written explanation, dated 11-2-2005 stating that only on account of his family circumstances, he walked out of the enquiry proceedings on 3-11-2004 and based on the enquiry report and the written explanation of the petitioner, dated 11-2-2005, he was dismissed from service under Ex.R14. In order to support his claim, he relied upon the following decisions:

2011 LLR 634 :

“In the matter of disciplinary proceedings, the court cannot act as an appellate court to reassess the evidence produced in the domestic enquiry besides that it cannot interfere with the ground that any view is possible on the basis of material on record.

As and when the punishment has been imposed upon the employee after holding of an enquiry, the courts have restricted powers only when the findings are perverse or based on no evidence, there has been violation of principles of natural justice or statutory regulations.”.

2011 LLR 637:

“Reinstatement with consequential benefits should not have been granted to a person employed for a fixed-term of service hence back wages also will not be allowed because of bad financial status of the appellant-corporation.”.

2010 LLR 744 :

“Dismissal from service - After enquiry of petitioner misconduct - Enquiry held found fair and proper - Findings of Enquiry Officer not perverse or biased - Dismissal of petitioner after following all due process of law - Interference with order of dismissal not required.”.

9. On the side of the respondent, Ex.R1 copy of the enquiry proceedings was marked. A perusal of Ex.R1 reveals that the enquiry was commenced on 7-10-2004 and on periodical adjournments, the enquiry was posted to 3-11-2004 and on the said day, the management witness by name Murugan Babu was examined and he has stated that the petitioner has not opened the chilled water valve during pasteurisation of milk and he directed him to open it and then the petitioner has opened it and in case if it was not noticed in time, huge quantity of milk getting spoiled and thereby incurred a loss of ₹ 60,000 to the respondent management. Then the petitioner was asked to cross examine the said witness, but he walked out of the enquiry proceedings. A perusal of Ex.R1 further reveals that the Enquiry Officer completed the enquiry and submitted his enquiry report to the respondent management by holding that the charges levelled against the petitioner were proved.

10. From the documentary evidence of Ex.R1, it can be seen that the petitioner was given fair opportunity in the enquiry and he was also required to cross examine the management witness, but he failed to utilise the said opportunity. On the side of the petitioner, Ex.P1 to Ex.P14 were marked. But the said documents are not in any way helpful to the petitioner to prove that he was dismissed from service without any reason. In the above circumstances, I feel that the enquiry was conducted in a fair manner by giving sufficient

opportunities to the petitioner and consequently, this court has come to the conclusion that the enquiry conducted by the respondent management is fair and proper.

11. Now, this court has to see whether the punishment of dismissal imposed by the respondent management is disproportionate or not.

12. There is no dispute that the petitioner has completed 35 years of service. According to the respondent, the petitioner has not opened the chilled water valve during pasteurisation of milk and he directed him to open it and then the petitioner has opened it and in case if it was not noticed in time, huge quantity of milk getting spoiled and thereby incurred a loss of ₹ 60,000 to the respondent management. As per the own version of respondent, the petitioner has obeyed the order of his superior after noticing the defect by him. Further there was no loss incurred by the respondent management due to the said act of the petitioner. It is not the case of the respondent that the petitioner was regularly committed the above said misconduct and he has not performed his duty to their satisfaction. Hence, the punishment of dismissal from service imposed by the respondent is disproportionate one and the same is liable to be *set aside* and it is declared that the petitioner is deemed to be continued in service till the date of superannuation and consequently the petitioner is entitled for back wages for the said period. It is admitted by both parties that the petitioner has received the gratuity amount and the provident fund dues up to the date of dismissal *i.e.*, 17-2-2005. Since the misconduct committed by the petitioner has been proved in the enquiry proceedings, he is not entitled for full back wages, but he is entitled only 75% from the date of dismissal *i.e.*, 17-2-2005 till the date of superannuation. The petitioner is also entitled for the provident fund, gratuity and other benefits for the said period for 75% of back wages, as per rules. Accordingly, this point is answered.

13. In the result, the industrial dispute is partly allowed and the Dismissal Order, dated 17-2-2005 passed by the respondent management is set aside and it is declared that the petitioner is deemed to be continued in service from the date of dismissal till the date of superannuation and consequently the petitioner is entitled to get 75% of back wages for the said period. However, in the circumstances of the case, there is no order as to costs.

Typed to my dictation, corrected and pronounced by me in the open court on this the 19th day of October, 2012.

T. MOHANDASS,
Presiding Officer,
Labour Court, Puducherry.

List of witness examined for the petitioner:

PW1 — 26-7-2012 — Antonisamy

*List of witnesses examined for the respondent: Nil**List of exhibits marked for the petitioner:*

- Ex.P1 — Suspension order, dated 28-5-2004.
- Ex.P2 — Show cause notice, dated 29-6-2004
- Ex.P3 — Reply letter by the petitioner, dated 12-7-2004
- Ex.P4 — Charge-sheet issued to the petitioner, dated 29-7-2004.
- Ex.P5 — Letter by the petitioner, dated 31-7-2004
- Ex.P6 — Explanation given by the petitioner, dated 4-8-2004.
- Ex.P7 — Memorandum issued to the petitioner, dated 22-9-2004.
- Ex.P8 — Enquiry proceedings, dated 7-10-2004
- Ex.P9 — Enquiry proceedings, dated 29-10-2004
- Ex.P10 — Enquiry report, dated 26-11-2004
- Ex.P11 — Show cause notice, dated 7-2-2005
- Ex.P12 — Memorandum issued to the petitioner, dated 7-2-2005.
- Ex.P13 — Reply by the petitioner, dated 11-2-2005
- Ex.P14 — Dismissal order, dated 17-2-2005

List of exhibits marked for the respondent:

- Ex.R1 — Copy of enquiry proceedings, dated 29-7-2004
- Ex.R2 — Show cause memorandum, dated 7-2-2005
- Ex.R3 — Written explanation, dated 11-2-2005 by petitioner.
- Ex.R4 — Complaint of Technical Superintendent, dated 20-5-2004.
- Ex.R5 — Order of suspension, dated 28-5-2004
- Ex.R6 — Show cause notice, dated 9-7-2004
- Ex.R7 — Written explanation of petitioner, dated 12-7-2004.
- Ex.R8 — Charge-sheet issued to the petitioner, dated 29-7-2004.
- Ex.R9 — Letter of petitioner, dated 31-7-2004
- Ex.R10 — Memorandum of the respondent, dated 31-7-2004.
- Ex.R11 — Written explanation, dated 4-8-2004 of the petitioner.
- Ex.R12 — Memorandum, dated 22-9-2004 to the petitioner.

- Ex.R13 — Letter of the petitioner to the M.D., dated 2-11-2004.
- Ex.R14 — Order of dismissal, dated 17-2-2005
- Ex.R15 — Final order, dated 17-6-2005 of Hon'ble High Court.
- Ex.R16 — Appeal preferred by the petitioner, dated 6-7-2005.
- Ex.R17 — Final order dated 26-7-2005 of Hon'ble High Court.
- Ex.R18 — Disposal of appeal, dated 6-7-2005 preferred by the petitioner.
- Ex.R19 — Final order, dated 22-10-2009 of Hon'ble High Court, Madras.
- Ex.R20 — Disposal of the appeal, dated 9-12-2009 preferred by petitioner.
- Ex.R21 — Industrial dispute raised by the petitioner, dated 2-8-2010.
- Ex.R22 — Counter statement of respondent, dated 29-11-2010.
- Ex.R23 — Failure report, dated 11-3-2011
- Ex.R24 — Abstract of the gazette notification, dated 26-5-2011.
- Ex.R25 — Letter, dated nil by the petitioner

T. MOHANDASS,
Presiding Officer,
Labour Court, Puducherry.

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 26/AIL/Lab./J/2013, dated 27th February 2013)

NOTIFICATION

Whereas, an Award in I. D. No. 2/2010, dated 10-10-2012 of the Labour Court, Puducherry in respect of the industrial dispute between the Managing Director, M/s. Leo Fasteners Unit-II, Puducherry and one Thiru R. Joseph Raj, over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G. O. Ms. No. 20/90/Lab./L., dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said award shall be published in the official gazette, Puducherry.

(By order)

S. THAMMU GANAPATHY,
Under Secretary to Government (Labour).

BEFORE THE LABOUR COURT AT PUDUCHERRY

Present : Thiru T. MOHANDASS, M.A., M.L.,
Presiding Officer, Labour Court,
Puducherry.

Wednesday, the 10th day of October 2012.

I.D. No. 2/2010

R. Joseph Raj . . . Petitioner

Versus

The Managing Director,
Leo Fasteners Unit-II,
Puducherry. . . Respondent

This industrial dispute coming on 3-10-2012 for final hearing before me in the presence of Tvl. M. Veerappan and S. Lenindurai, Advocates for the petitioner, M/s. Vrintha Mohan, Advocate for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this court passed the following:

AWARD

This industrial dispute arises out of the reference made by the Government of Puducherry *vide* G. O. Rt. No.19/AIL/Lab./J/2010, dated 3-2-2010 of the Labour Department, Puducherry to resolve the following dispute between the petitioner and the respondent, *viz.*,

(1) Whether the dispute raised by Thiru R. Joseph Raj against the management of M/s. Leo Fasteners Unit-II, Puducherry, over refusal to provide work, change of service conditions and unfair labour practice is justified or not?

(2) If justified, to what relief the petitioner is entitled to?

(3) To compute the relief, if any, awarded in terms of money, if it can be so computed?

2. The petitioner, in his claim statement, has averred as follows:

He was the regular employee of the respondent company ever since 15-3-2006 and he was appointed as Electrician based on his qualification. Though he was a member of the Employees Trade Union, he had not participated in any strike including the strike held on 19th to 24th March 2009. On 20-9-2008 when he entered into the work place, he had seen a snake went into the working spot and he reported the same to the management through his superior. No attempt was made to find out the snake by the respondent management, but he was issued with a memo on 17-10-2008 by the respondent as if he made a false complaint.

In an act of vindictive action, the respondent refused to allow him into the factory premises and carry out his routine work, instead he was asked to sit before the factory premises on 16-5-2005 onwards and he was given the job of scrap coil cutting in waste yard and the said work was continued for sometime and then no work was given to him. However, he was made to sit in front of the factory premises.

The petitioner approached the Conciliation Officer, who advised the respondent management to take him back to the factory. But the respondent instead of following the advise of the Conciliation Officer, all of a sudden asked him to go to the land situated at Moratandi to work in the said place. However, no office order was given to him. He went to the said spot and found that it is a burial ground and there is no symptom of working place in the said area.

Since the respondent failed to follow the advise of the Conciliation Officer, he filed a Writ Petition No. 20386/2009 before the Hon'ble High Court, Madras and an order was passed to grant interim injunction restraining the respondent company and also directed them not to alter the service condition of the petitioner as Electrician. On the basis of M.P. No.1 of 2009 in W.P. No. 20386/2009, an order was passed on 24-2-2010 stating that an order of interim injunction to remain in force regarding not to discontinue the service of the petitioner from the respondent, however the respondent did not obey the order of Hon'ble High Court. In view of the difficulty faced by the petitioner, the Hon'ble High Court directed to respondent to pay the last drawn wages to the petitioner and the respondent paid the arrears of pay to him through cheque for ₹ 43,595 however the respondent did not give the employment so far to him. Hence, this industrial dispute is filed for his reinstatement with other benefits.

3. In the counter statement, the respondent has stated as follows :

The petitioner was assigned his usual job of an electrical work involved in the helping of setting up of the electrification of the respondent's new land of company at Moratandi. The petitioner went to the site from 27th August 2009 to 1st September 2009 and due to exigency of service, in the evening of 1-9-2009 the petitioner was intimated in writing to report to his work directly to the site and also mark his attendance there for the purposes of evading the time wastage in reporting to the petitioner's place of work and then travelling to the new site at Moratandi. The petitioner had not reported to work from 2-9-2009, instead he had sent a false telegram stating that he has been prevented from entering the factory. The respondent has sought for a clarification with the petitioner as to in which site he has reported to work for which no reply was

forthcoming from the petitioner. The respondent had issued a letter dated 9-9-2009 urging the petitioner to report for work without further delay. In spite of receipt of the said letter, the petitioner chose neither to report to duty nor to give any reasonable explanations. Then on 19-9-2009 the respondent issued a show cause notice asking him to show cause for his unauthorised absence from 2-9-2009 for which the petitioner restrained from giving any reply with ulterior motives. The petitioner having permanently abandoned the employment with the respondent without any justifiable or reasonable cause the petitioner had concealed all the material facts and had preferred with W.P. No. 20386/2009 before the Hon'ble High Court, Madras. Hence, he prays for dismissal of the industrial dispute.

4. On the side of the petitioner, PW.1 was examined and Ex.P1 to Ex.P47 were marked. On the side of the respondent, RW.1 was examined and Ex.R1 was marked.

5. *The point for determination is:*

Whether the petitioner can be considered for reinstatement in service with accrued benefits?

6. *On the point:*

The main contention of the petitioner is that the respondent management refused to allow him to carry out his regular work of electrician and he was asked to sit before the factory premises from 16-5-2005 onwards and he was given the job of scrap coil cutting in waste yard and then he was directed to work at Moratandi village and he went to the said place and found that the said place was a burial ground and then he approached the Hon'ble High Court, Madras and as directed by them, he was paid the last drawn wages, but till date the respondent did not given employment to him. In order to support his claim, the petitioner was examined as PW.1.

7. *Per contra*, the contention of the respondent is that the petitioner was directed to work at the new land of the company at Moratandi and he went to the said site from 27th August 2009 to 1st September 2009 and thereafter he did not turn up for work and hence he was issued with the show cause notice on 19-9-2009 for his unauthorised absence from 2-9-2009. In order to support the said claim, the Co-ordination Manager was examined as RW.1.

8. There is no dispute that the petitioner was an employee under the respondent company. On the side of the petitioner, the appointment letter, dated 15-3-2006 was marked as Ex.P1 and confirmation letter, dated 15-7-2008 as Ex.P2. Ex.P1 and Ex.P2 would prove that the petitioner was appointed as an Electrician in the respondent company and he joined duty on 15-3-2006 and then his service was confirmed on 15-7-2008. The respondent has not challenged these two documents under Ex.P1 and Ex.P2.

9. RW.1 in his evidence has deposed that the petitioner has induced the company employees for strike and he has helped finance the striking employees by giving them a loan against property documents and hence, he was issued with a memo calling for his explanation. The said memo was marked on the side of the petitioner as Ex.P4. The petitioner has submitted his written explanation under Ex.P5 denying all the allegations contained in Ex.P4. When the respondent has contended that the petitioner has induced the employees for strike and help the finance for strike employees, it is their duty to get a complaint from the concerned supervisor and based on which, the memo under Ex.P4 should have been issued to the petitioner. But on the side of the respondent, no such complaint has been received and marked as exhibit.

10. PW.1 in his evidence has deposed that he was advised to go to the land situated at Moratandi to work in the said place and he went to the said place and found that it is a barren land with a burial ground adjacent to the area and there is no symptom of working place or factory premises in the said area and there is no existence of factory and there is no symptom of working men, no supervisor.

11. But RW.1 in his evidence has deposed that on 1-9-2009 the petitioner was intimated in writing to report to his work directly to the Moratandi site and also marked his attendance there for the purposes of evading the time wastage in reporting to the petitioner's place of work and then travelling to the new site at Moratandi and the petitioner received this letter under protest, but the petitioner has not reported to work from 2-9-2009 and instead had chosen to send a false telegram stating that the petitioner has been prevented from entering the factory and their company had sought for a clarification with the petitioner as to in which site he has reported to work for which, no reply was forthcoming from the petitioner and then their company had issued a office letter dated 9-9-2009 urging the petitioner to report for work without further delay and in spite of receipt of their letter, the petitioner chose neither to report to duty nor to give any reasonable explanations for the management letter and then on 19-9-2009 their management issued a show cause notice, asking him to show cause for his unauthorised absence from 2-9-2009.

12. In order to prove his claim, PW.1 has marked the photos of the said land as Ex.P43. On perusal of Ex.P43, it is seen that there is a barren land with a burial ground and there is no building in the said area. Though the said photos are not proved the identity of the location, as stated by the respondent, the respondent has not challenged the said photos under Ex.P43. When the petitioner has contended that there is no such factory

exists at Moratandi as stated by the respondent, it is the duty of the respondent to prove that they are having factory in the said place by producing the documentary evidence. Admittedly, no documents were produced to prove their claim. Further in some of the letters sent by the respondent company, which have been marked on the side of the petitioner, there is no mention about the Moratandi Branch. PW.1 has marked the copy of the transfer order sent to the petitioner as Ex.P11. But Ex.P11 did not contain any name of the designating officer, to whom the petitioner should contact, travelling to the far off area from the head office contemplate conveyance allowance and travelling allowance to be paid to the employee was also not stated in the said order and to whom the attendance register was available was also not specifically indicated in the said order, as rightly pointed out by the learned counsel for the petitioner. Hence, I feel that the respondent has failed to establish that there is a plant and the preliminary work was carried out at Moratandi Branch, as stated by them and in the above circumstances, this court has come to the conclusion that it is a open space and no one of the employee expected to be put in the adverse atmosphere of location and the respondent with an ulterior motive only shifted the petitioner to an isolated place without mentioning any job in the said order.

13. The learned counsel for the petitioner has submitted that as per D. No. 38, dated 27-11-2009, the Conciliation Officer had dealt various points raised by the petitioner and the respondent company replied and as per the point dealt by the authority, it is stated that there is no building and no factory in the said Moratandi land and no one was there as designating officer in the said area and therefore the conciliation authority advised the respondent management to give the job of Electrician as per the office order and the respondent has admitted before the authority as found in the conciliation failure report that the management has given the alternative work temporarily to the petitioner and it would rectify the same shortly. The learned counsel for the petitioner further submitted that even after the advise given by the conciliation authority, the respondent continued their motivated action and refused employment to the petitioner without any valid reason and justification and hence the petitioner was forced and compelled to approach the Hon'ble High Court, Madras through Writ Petition No. 20386/2009 and the Hon'ble High Court has ordered the respondent not to terminate the service of the petitioner and allowed the interim stay in favour of the petitioner that he should not be removed from service and again the interim stay order was continued as per the order, dated 8-10-2009 in the said writ petition and it was ordered that the respondent has to give arrears of pay treating the petitioner deemed to be continuing

in the job as per his last drawn pay from 8-10-2009 till this court takes up the matter for adjudication and accordingly the respondent has paid the arrears of pay of ₹ 43,595 *vide* cheque, dated 21-10-2011.

14. In order to prove the said claim, PW.1 has marked the copy of the interim injunction order passed by the Hon'ble High Court as Ex.P31, copy of the stay extension as Ex.P36, copy of the order passed in W.P. No.20386/2009, dated 24-2-2010 as Ex.P40 and copy of the order in W.P. No.20386/2009 and M.P. No. 1 of 2009 as Ex.P44 to Ex.P47. The above documents would clearly prove the above claim. The respondent though has admitted the above facts, submitted that the petitioner had concealed all the material facts and had preferred with mala fideness a Writ Petition No. 20386/2009 on 2-10-2009 before the Hon'ble High Court, Madras and had obtained an interim stay order. Mere oral evidence of RW.1 will not in any way helpful to the defence taken by the respondent. In fact except Ex.R1, no documents were filed on the side of the respondent to disprove the case of the petitioner.

15. According to RW.1, the prayer by the petitioner for a direction to offer the same employment to the petitioner with the continuity of service with increased salary and a direction to pay the back wages is unjust and illegal, since the question of reinstatement would not arise as the petitioner himself had voluntarily abandoned the service with the respondent and had also chosen not to avail the opportunities extended by the respondent requesting the petitioner to come and join the employment.

16. On the other hand, the petitioner had submitted that he obeyed the transfer order dated 1-9-2009 Ex.P11 and went to the said land and found that no one was there and therefore he went back to the head office to inform the same, but he was stopped by the security in the gate and he was not allowed to meet the Manager and he requested the security to inform the said officer, but he was neither allowed to meet the officer concerned nor the official called him to get the fact regarding the visit to the Moratandi vacant land and hence he immediately sent telegrams from 2-9-2009 to 5-9-2009 under Ex.P15 and Ex.P19 to Ex.P21 to the respondent informing the said fact. In the said documents, it has been stated that when he came for duty, the security has not allowed him inside the factory. Though RW.1 in his evidence has admitted the documents under Ex.P15 and Ex.P19 to Ex.P21, stated that the reason stated therein is false. Even if the reason stated in the said documents is taken as false and the petitioner himself has abandoned his service as stated by the respondent, it is the duty of the respondent to conduct the enquiry and in the said enquiry, sufficient

opportunities have to be given to the petitioner and based on the enquiry report of the Enquiry Officer the action should have taken against him. But in this case, as admitted by the respondent, no enquiry was conducted. At this stage, it is pertinent to refer the following decision, which is relevant to this case :

2002(4) L.L.N. 850 :

State of Uttar Pradesh Vs. Presiding Officer, Labour Court, Agra and another :

“It is settled that even in the case of alleged abandonment, it was necessary for the employer to have conducted an enquiry, issue a charge sheet and notice to the workman concerned informed him that he is continuously absenting without any sanctioned leave though admittedly have not been done.”

As per the above decision, even in the case of alleged abandonment, it is necessary for the employer to have conducted an enquiry. As already stated, there is no enquiry conducted in this case. Hence, this court has come to the conclusion that the non-employment of the petitioner was bad and consequently, he is entitled for reinstatement with continuity of service, other attendant benefits and full back wages. Accordingly, this point is answered.

17. In the result, the industrial dispute is allowed and the award is passed to the effect that the non-employment of the petitioner and his dismissal from service is unjustified and is illegal and therefore it is hereby set aside. The respondent company/management shall reinstate the petitioner into service with continuity of service and back wages and other attendant benefits. However in the circumstances of the case, there is no order as to costs.

Typed to my dictation, corrected and pronounced by me in the open court on this the 10th day of October, 2012.

T. MOHANDASS,
Presiding Officer,
Labour Court, Puducherry.

List of witness examined for the petitioner:

P.W.1 — 23-8-2012 — Joseph Raj

List of witness examined for the respondent:

P.W.1 — 12-9-2012 — Krishnan

List of exhibits marked for the petitioner:

Ex.P1 — Appointment letter of the petitioner, dated 15-3-2006.

Ex.P2 — Copy of the confirmation letter, dated 15-7-2008.

Ex.P3 — Copy of service standing orders

Ex.P4 — Copy of show cause notice issued to petitioner, dated 1-4-2009.

Ex.P5 — Copy of the reply by the petitioner, dated 2-4-2009.

Ex.P6 — Copy of letter by petitioner, dated 30-6-2009

Ex.P7 — Copy of the objection, dated 14-7-2009

Ex.P8 — Copy of the application before Conciliation Officer, dated 16-7-2009.

Ex.P9 — Copy of the reply, dated 21-7-2009

Ex.P10 — Copy of the letter by petitioner, dated 22-7-2009

Ex.P11 — Copy of transfer order, dated 1-9-2009

Ex.P12 — Copy of the reply by petitioner, dated 2-9-2009

Ex.P13 — Copy of the reply by petitioner, dated 2-9-2009

Ex.P14 — Copy of the reply by petitioner, dated 2-9-2009

Ex.P15 — Copy of the telegram by the petitioner, dated 2-9-2009.

Ex.P16 — Copy of the letter by the petitioner, dated 3-9-2009.

Ex.P17 — Copy of the reply, dated 3-9-2009

Ex.P18 — Copy of the reply, dated 3-9-2009

Ex.P19 — Copy of the telegram by petitioner, dated 3-9-2009.

Ex.P20 — Copy of the telegram by petitioner, dated 4-9-2009.

Ex.P21 — Copy of the telegram by petitioner dated 5-9-2009.

Ex.P22 — Copy of letter by respondent, dated 5-9-2009

Ex.P23 — Copy of the letter by respondent, dated 9-9-2009

Ex.P24 — Copy of reply by respondent, dated 12-9-2009

Ex.P25 — Copy of reply by petitioner, dated 15-9-2009

Ex.P26 — Copy of letter by petitioner, dated 15-9-2009.

Ex.P27 — Copy of show cause notice by respondent, dated 19-9-2009.

Ex.P28 — Copy of reply by petitioner, dated 23-9-2009

Ex.P29 — Copy of reply by petitioner, dated 23-9-2009

Ex.P30 — Copy of writ petition, dated 2-10-2009

Ex.P31 — Copy of interim injunction order from Hon'ble High Court, dated 8-10-2009.

Ex.P32 — Copy of reply by petitioner, dated 3-11-2009

Ex.P33 — Copy of letter by petitioner, dated 3-11-2009

Ex.P34 — Copy of letter of petitioner, dated 3-11-2009

Ex.P35 — Copy of letter by respondent, dated 4-11-2009

Ex.P36 — Copy of stay extension by Hon'ble High Court, dated 12-11-2009.

- Ex.P37 — Copy of reply by petitioner, dated 16-11-2009
 Ex.P38 — Copy of failure report, dated 27-11-2009
 Ex.P39 — Copy of reference letter by Labour Department, dated 3-2-2010.
 Ex.P40 — Copy of order in W.P. No. 20386/2009, dated 24-2-2010.
 Ex.P41 — Copy of contempt petition, dated 13-7-2010
 Ex.P42 — Original pay bill of petitioner
 Ex.P43 — Photos
 Ex.P44 — Copy of order in W.P. No. 20386/2009 in M.P. No.1/2009, dated 8-10-2009.
 Ex.P45 — Copy of order in W.P. No.20386/2009 in M.P. No. 1/2009, dated 12-11-2009.
 Ex.P46 — Copy of order in W.P. No.20386/2009 in M.P. No. 1/2009, dated 24-2-2010.
 Ex.P47 — Copy of order in W.P. No.20386/2009 in M.P. No. 1/2009, dated 17-8-2011.

List of exhibits marked for the respondent:

- Ex.R1 — Board Resolution, dated 10-9-2012.

T. MOHANDASS,
 Presiding Officer,
 Labour Court, Puducherry.

**GOVERNMENT OF PUDUCHERRY
 LOCAL ADMINISTRATION SECRETARIAT**

(G.O. Ms. No. 36/LAS/2013, dated 21st February 2013)

NOTIFICATION

In pursuance of clause (e) of sub-section (1) of section 2 of the Information Technology Act, 2000 (Central Act 21 of 2000), the Lieutenant-Governor, Puducherry has been pleased to direct that the birth and death certificates required to be issued to an applicant under rule 8 of the Puducherry Registration of Birth and Death Rules, 1999 may also be issued in the following manner, namely:—

(i) The birth and death certificates of the Yanam Municipality of Union territory of Puducherry will be issued through online in the form of the electronic record by the Common Service Centre located in the Union territory of Puducherry;

(ii) The birth and death certificates issued through online in the form of electronic record should be digitally signed by the concerned Registrar of Birth and Death who holds the requisite “Digital Signature Certificate” as defined under clause (q) of sub-section (1) of section 2 of the said Central Act 21 of 2000;

(iii) The birth and death certificates may be issued to any applicant in respect of the Yanam Municipality of the Union territory of Puducherry by Common Service Centre on payment of fee prescribed under rule 8 of the said rules with such other incidental charges as prescribed by the Director of Local Administration Department, Puducherry;

(iv) Where an applicant obtains the birth and death certificates issued through online in the form of electronic record instead of the method prescribed therein for issue of such certificates, he can verify such electronic record;

(v) Where the authenticity of the computer generated birth and death certificates issued by the Common Service Centre is sought to be verified by an applicant, he can do verification by logging on to viz., <https://www.puduvaisevai.gov.in> by using the reference number and security code.

2. The birth and death certificates of Yanam Municipality may be issued by Common Service Centre through online in respect of any year commencing from the year indicated below:—

Sl. No.	Name of the Municipality	Year of entry	
		Birth	Death
(1)	(2)	(3)	
1	Yanam Municipality	2000	2000

(By order of the Lieutenant-Governor)

N. SUMATHI,
 Joint Secretary to Government.

**GOVERNMENT OF PUDUCHERRY
 CHIEF SECRETARIAT (HOUSING)**

(G.O. Ms. No. 3/2013-Hg, dated 22nd February 2013)

ORDER

In the G. O. Ms. No. 11/99/Hg., dated 28-6-1999 of the Chief Secretariat (Housing), Puducherry, certain reservation criteria has been specified by the Government in respect of all housing schemes implemented by the Town and Country Planning Department, Puducherry and Puducherry Housing Board, Puducherry. The Puducherry Housing Board, Puducherry has constructed 24 LIG flats at Valatheru, Karaikal based on the approval of Government vide G.O. Ms. No. 8/2001/Hg., dated 16-3-2001 and despite best efforts taken by the Board, 21 out of 24 LIG flats remained without takers. In this connection the